

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
	:	CASE NO. _____
PLAINTIFF-APPELLEE,	:	
	:	
v.	:	On Appeal from the
	:	Madison County Court of Appeals,
JONATHAN W. CULLEN,	:	Twelfth Appellate District
	:	
DEFENDANT-APPELLANT.	:	CASE NO. CA2022-08-016
	:	

**APPELLANT JONATHAN W. CULLEN'S
MEMORANDUM IN SUPPORT OF JURISDICTION**

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**THIS IS A CASE OF PUBLIC OR GREAT GENERAL INTEREST
AND INVOLVES A SUBSTANTIAL CONSTITUTIONAL QUESTION**

The right to not be tried while incompetent is rooted in the principles of due process and fundamental fairness. *Drope v. Missouri*, 420 U.S. 162, 171-72 (1975); *State v. Thomas*, 2002-Ohio-6624, ¶ 36. A defendant is presumed to be competent, which means he must have some rational understanding of the proceedings against him and the present ability to assist in his own defense. *State v. Were*, 2008-Ohio-2762, ¶ 45, quoting *Dusky v. United States*, 362 U.S. 402, 402 (1960). This Court has clearly stated that where counsel properly raised the issue of competence prior to trial, the court must hold a hearing. *State v. Hough*, 2022-Ohio-4436, ¶ 23, quoting *State v. Were*, 94 Ohio St.3d 173, 177 (2002). However, this Court has not yet addressed the factors a trial court should consider when determining whether to order a competency evaluation. Revised Code 2945.371 states that a “the court may order one or more evaluations of the defendant’s present mental condition.” Trial courts would benefit from guidance as to when they should order a competency evaluation. Appellate courts would benefit from guidance in determining whether the trial court abused its discretion in denying an evaluation.

This case involves a substantial constitutional question because while Mr. Cullen is presumed competent, the evidence of his incompetence causes doubt as to whether he had a “rational as well as factual understanding of the proceedings against him,” and if he had “sufficient present ability to consult with his lawyer with a reasonable degree of certainty.” *Were*, 2008-Ohio-2762, at ¶ 45. This doubt as to Mr. Cullen’s competency gave rise to a need for a competency evaluation because neither his attorney nor the trial court had the expertise to determine the extent of Mr. Cullen’s understanding. However, the trial court made a competency determination without the benefit of an expert’s report or testimony. The appellate court found this decision was not an abuse of discretion because the decision of whether to order an evaluation is left to the trial court.

While R.C. 2945.371 states that, “the court *may* order one or more evaluations,” the statute must be read with the right to not be tried while incompetent in mind. Without the benefit of a competency evaluation, the court in this case did not have enough information to determine if Mr. Cullen was competent to stand trial. This Court should accept jurisdiction to give guidance to R.C. 2945.371 and clarify that where the defendant raises “a good faith claim” of incompetence, the trial court should order a competency evaluation where there is no other evidence as to the defendant’s competence.

STATEMENT OF THE CASE AND FACTS

In December 2021, a Madison County grand jury indicted Jonathan Cullen on one count of rape of a child less than ten years of age. *State v. Cullen*, 2024-Ohio-1916 (12th Dist.). Shortly after the indictment, Mr. Cullen’s trial counsel moved for a competency evaluation due to a previously diagnosed mental illness, pursuant to R.C. 2945.37, 2945.371, and 2945.39. *Id.* at ¶ 3. The court held a pre-trial hearing where defense counsel informed the court that as an infant, Mr. Cullen suffered from a severe infection that affected his brain. *Id.* at ¶ 4. At this hearing the trial court questioned Mr. Cullen, where he often repeated back the information directed at him. *Id.* at ¶ 101 (Piper, J., dissenting). From January until June 2022, the trial court granted several continuances for defense counsel to obtain copies of Mr. Cullen’s childhood medical records from a hospital in Texas. *Id.* at ¶ 6. Ultimately, trial counsel informed the court that the hospital purged Mr. Cullen’s childhood medical records. *Id.*

In June 2022, the trial court held a competency hearing. *Id.* at ¶ 7. At the outset of the hearing, the court engaged in a colloquy with Mr. Cullen that was almost identical to his previous questioning. *Id.* Once again, Mr. Cullen often repeated exactly what the judge said and responded to leading questions with one-word answers. *Id.* at ¶ 68 (Piper, J., dissenting). When the court

indicated that Mr. Cullen should agree with him, Mr. Cullen obliged. *Id.* However, upon further scrutiny, Mr. Cullen did not know the prosecutor’s job or title. *Id.* at ¶ 8. Mr. Cullen displayed limited understanding of the role of the jury. *Id.* at ¶ 10. He could not remember who the alleged victim was, even though he previously lived with her. *Id.* at ¶ 102 (Piper, J., dissenting). Initially, Mr. Cullen did not understand the judge’s role. *Id.* at ¶ 11. Only after prompting from the court did Mr. Cullen display a partial understanding of the judge’s position:

The Court:	And so what do you think my job is? The jury decides whether or not you are guilty or innocent.
Mr. Cullen:	Yeah.
The Court:	What do you think my job is?
Mr. Cullen:	That’s a hard one.
The Court:	That’s fair. You had indicated a moment ago that my job is to explain things to people. If the jury was to find you guilty, whose job would it be to impose sentence?
Mr. Cullen:	You.

Id. at ¶ 11. Following this questioning, the court observed that Mr. Cullen still displayed “some confusion” about the proceedings and proceeded to hear evidence related to Mr. Cullen’s medical history and disabilities. *Id.* at ¶ 68 (Piper, J., dissenting).

Mr. Cullen’s mother, Tonya Harper, testified at the hearing. *Id.* at ¶ 14. She confirmed that Mr. Cullen, as an infant, suffered from a high fever that resulted in convulsions and stopped his breathing. *Id.* Ms. Harper no longer possessed Mr. Cullen’s infant medical records due to their move to Ohio. *Id.* at ¶ 16. That incident caused permanent brain damage to Mr. Cullen, resulting in developmental delays and his enrollment in learning disabled classes all throughout school. *Id.* at ¶ 14-15. Ms. Harper testified that Mr. Cullen received Social Security Disability benefits due to his condition. *Id.* at ¶ 15. The trial court prohibited Ms. Harper from testifying about Mr. Cullen’s diagnosis because she is not a medical doctor. *Id.* at ¶ 70 (Piper J., dissenting).

At the conclusion of Ms. Harper’s testimony, Mr. Cullen’s trial counsel renewed his request for a competency evaluation. *Id.* at ¶ 17. The trial court acknowledged that trial counsel had “established a good faith basis” that Mr. Cullen may suffer from “some mental illness or mental disease[.]” but noted that the “exact nature of that remain[ed] unclear” due to the absence of Mr. Cullen’s medical records. *Id.* at ¶18. The trial court further stated:

Ultimately, the testimony revealed that the Defendant graduated from high school but that he was learning disabled. The extent of those disabilities is simply unclear. It’s just not adequately articulated in order for the Court to put four corners on it, but it is reasonably clear that Mr. Cullen, through the Court’s colloquy, may be characterized as somewhat lower functioning, and that’s the best I can say. When I indicate that he is somewhat lower functioning, I make that observation as a layperson with experience in the law, not as a psychologist or a psychiatrist.

In the Court’s observation, Mr. Cullen . . . was able to engage in a colloquy with the Court. Where he was unclear as to the Court’s questions, he was able to articulate that he didn’t understand . . . He certainly displayed an adequate comprehension of the role of [his defense counsel] in defending him. While he was unclear as to the title of [the prosecutor], . . . with a little bit of guidance he was able to explain that [the prosecutor] would be presenting evidence in support of the claim of rape, and that [defense counsel] would be attempting to do the opposite. He was able to understand that the jury would determine if he was guilty or not guilty; and, ultimately, was able to understand that I am the judge in the case, and that ultimately sentence upon a finding of guilt would be imposed by the judge . . .

Id. at ¶ 18-19. The trial court determined there was insufficient evidence to find Mr. Cullen incompetent and that, based on its own colloquy, it was satisfied that Mr. Cullen was able to understand the nature and objective of the proceedings as well as assist in his own defense. *Id.* The trial court also issued a written entry summarizing its decision. *Id.* at ¶ 20. Despite trial counsel’s concerns about Mr. Cullen’s competence to stand trial, repeated requests for a competency evaluation, and the testimony of Mr. Cullen’s mother regarding his lifelong cognitive disability, the trial court did not order a professional evaluation before finding Mr. Cullen was competent. *Cullen* at ¶ 19.

Mr. Cullen proceeded to a jury trial and was convicted. *Id.* at ¶ 21. The trial court sentenced him to life without parole. *Id.*

Mr. Cullen appealed his conviction to the Twelfth District Court of Appeals, which affirmed his conviction in a 2-1 decision. The majority found that Mr. Cullen's answers indicated that he understood the nature and objective of the criminal proceedings. *Id.* at ¶ 29. Further, the majority found that R.C. 2945.37 did not prohibit leading questions and the trial court's questioning was not leading enough to undermine the reliability of Mr. Cullen's answers. *Id.* at ¶ 31-32. The majority also held that the plain language of R.C. 2945.371(A) renders the decision to order a competency evaluation within the discretion of the trial court. *Id.* at ¶ 39. Ultimately, the majority reasoned that "credible evidence" supported the trial court's denial of a competency evaluation. *Id.* at ¶ 39.

Judge Piper wrote a lengthy dissent where he criticized both the actions of the trial court as well as the undue deference the majority opinion afforded to the trial court. In challenging the majority's reading of R.C. 2945.371(A), the dissent argued the plain language of the statute required the trial court to order at least one competency evaluation from a medical professional. *Id.* at ¶ 86-88. Additionally, the dissent criticized the trial court for its handling of Mr. Cullen's competency, such as not inquiring into Mr. Cullen's memory, communication abilities, or level of comprehension. *Id.* at ¶ 71. In the absence of these findings, the dissent argued that the trial court simply relied on its layperson observations of Mr. Cullen without further inquiring if he had a rational understanding of the proceedings. *Id.* at ¶ 98. The dissent concluded that the court's colloquy was not a substitute for a medical evaluation, the significance of Mr. Cullen's cognitive impairment remained unknown and undeveloped, and it would have vacated Mr. Cullen's conviction. *Id.* at ¶ 66, 109.

ARGUMENTS IN SUPPORT OF THE PROPOSITIONS OF LAW

PROPOSITION OF LAW I

A trial court abuses its discretion when it fails to order a competency evaluation despite uncontested evidence of incompetence and the record is devoid of additional evidence to support a finding of competence.

I. A defendant has the constitutional right to not be tried while incompetent

The right to not be tried while incompetent is rooted in the principles of due process and fundamental fairness. *Drope v. Missouri*, 420 U.S. 162, 171-72 (1975). As a result, a state’s “failure to observe procedures adequate to protect a defendant’s right not to be tried or convicted while incompetent to stand trial deprives him of his due process right to a fair trial.” *Id.* at 172, citing *Pate v. Robinson*, 383 U.S. 375, 378 (1966). Revised Code 2945.37 sets forth the procedures to protect this important constitutional right in Ohio. *See State v. Mills*, 2023-Ohio-4716, ¶ 10. Accordingly, a trial court errs when it fails to strictly comply with the statutory requirements of R.C. 2945.37. *State v. Were*, 94 Ohio St.3d 173, 174 (2002).

A defendant is presumed competent to stand trial. R.C. 2945.37(G). However, a defendant is incompetent when he “is incapable of understanding the nature and objective of the proceedings against [him] or of assisting in [his] defense.” *Id.*; *see also Dusky v. United States*, 362 U.S. 402, 402 (1960) (the test for competency “must be whether [the defendant] has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.”)

At both the competency hearing and in its written entry, the trial court needed additional information, namely an expert’s opinion on whether Mr. Cullen understood the nature and objective of the proceedings and that he was able to assist in his own defense as required under R.C. 2945.37(G). Without an evaluation and without sufficient factual findings that Mr. Cullen

was competent, the trial court failed to strictly comply with the statutory requirements of R.C. 2945.37 and violated Mr. Cullen’s right to due process. *See Were*, 94 Ohio St.3d at 174.

II. It is an abuse of discretion to deny the defendant’s request for a competency evaluation where the evidence available to the court is insufficient to find the defendant competent

The trial court abused its discretion when, despite uncontested evidence in the record that Mr. Cullen may be incompetent, it chose to forego an evaluation and found Mr. Cullen competent to stand trial. The trial court’s failure to order an evaluation was further compounded by its failure to sufficiently support both findings under R.C. 2945.37(G) with evidence in the record before rendering Mr. Cullen competent to stand trial. The trial court’s failure to “observe procedures adequate to protect a defendant’s right not to be tried or convicted while incompetent” violated Mr. Cullen’s right to due process and a fair trial. *Drope*, 420 U.S. at 172.

A. When determining whether to order a competency evaluation, the trial court must protect the defendant’s right to not be tried while incompetent

When the issue of a defendant’s competency is raised, a trial court “may order one or more evaluations of the defendant’s present mental condition” with a qualified expert. R.C. 2945.371(A). In making its determination, the court must “protect a defendant’s right not to be tried or convicted while incompetent to stand trial” because if he is not competent, he is deprived of “his due process right to a fair trial.” *Drope*, 420 U.S. at 172-73. The trial court’s determination whether to order a competency evaluation is reviewed for an abuse of discretion. *See e.g., State v. Bailey*, 90 Ohio App.3d 58, 67 (11th Dist. 1992); *State v. Patton*, 2009-Ohio-1382, ¶ 8 (10th Dist.); *State v. Matharu*, 2017-Ohio-8251, ¶ 15 (2nd Dist.); *State v. Cook*, 2016-Ohio-2823, ¶ 63 (5th Dist.).

Mr. Cullen’s trial counsel repeatedly raised his concerns regarding his competency to the trial court, thus triggering the trial court’s obligation to determine if an evaluation was necessary.

Trial counsel first moved for a competency evaluation in January 2022 and renewed his request for an evaluation at the conclusion of the June 2022 competency hearing. *Cullen*, 2024-Ohio-1916, at ¶ 3, 17.

B. Where the court does not have sufficient evidence to determine whether the defendant can understand the nature of the proceedings or assist in the defense, it should order a competency evaluation

At the conclusion of Mr. Cullen’s competency hearing, there was ample evidence to continue to question Mr. Cullen’s competency. That evidence combined with multiple unanswered questions regarding Mr. Cullen’s intellectual abilities, medical history, and recognized disability should have triggered the trial court to order an evaluation and its failure to order one was an abuse of discretion. Moreover, the trial court’s questioning of Mr. Cullen failed to consider the vulnerabilities of Mr. Cullen as someone with an intellectual disability. Individuals suffering from intellectual disabilities are likely to acquiesce and feign understanding, especially when interacting with authority figures. See Randy Otto, *Competency to Stand Trial* (2006), available at https://dev.cjcenter.org/_files/apcj/2_3_Competence.pdf (accessed July 4, 2024) [<https://perma.cc/W4TE-MJPQ>].

1. Testimony of Mr. Cullen’s mother provided evidence that he was not competent to stand trial

The trial court was presented with information and testimony from Mr. Cullen’s mother, Ms. Harper, regarding the permanent brain damage he incurred as an infant. *Cullen* at ¶ 14. Ms. Harper testified that as a result of this incident, Mr. Cullen was developmentally delayed and received special education accommodations while in school. *Id.* at ¶ 14-15. Notably, the trial court learned that Mr. Cullen’s condition was serious enough that he qualified for Social Security Disability benefits as a result. *Id.* at ¶ 15.

The Social Security Administration has a strict definition for intellectual disability to qualify for benefits, and an applicant must meet the following three criteria: “[s]ignificantly subaverage general intellectual functioning; significant deficits in current adaptive functioning; and the disorder manifested before age 22.” 20 C.F.R. Part 404, Subpart P, Appendix 1 at 12.00(H), 12.05. Applicants must undergo a five-step evaluation process to determine whether they meet the applicable disability criteria, as well as continuing disability review periodically to ensure they still meet the disability requirements. 20 C.F.R. 416.204, 416.920, 416.989, 416.990.

Both the trial court’s decision at the hearing and its written entry failed to address Mr. Cullen’s social security disability benefits. *Cullen* at ¶ 18-20. While the trial court mentioned Mr. Cullen’s brain damage as an infant and his enrollment in special education classes while in school, it is unclear from the record whether the trial court considered the strongest evidence of Mr. Cullen’s potential incompetency—his social security disability benefits.

2. Mr. Cullen’s answers to the trial court’s questions did not provide clarification as to the extent of Mr. Cullen’s cognitive disability

During the competency hearing, Mr. Cullen was unable to answer several important questions regarding the trial process. While Mr. Cullen was able to articulate the role of his attorney, he was unable to answer most of the trial court’s questions. *Id.* at ¶ 7. He provided just one statement in *his own words* as to the prosecutor’s role, stating: “Trying to pin something on me for something I didn’t even do.” *Id.* at ¶ 8. However, Mr. Cullen could not answer what the prosecutor was going to “try to do in this courtroom” nor what prosecutors do in a trial. *Id.* at ¶ 9.

Mr. Cullen also lacked understanding of the role of the judge. He said that the judge’s role was to “explain the cases to people.” *Id.* at ¶ 11. The trial court provided Mr. Cullen with additional information about a judge’s role, but despite the coaching, when asked again about the judge’s

role, Mr. Cullen stated, “That’s a hard one.” *Id.* The court then asked whose job it was to impose a defendant’s sentence, to which Mr. Cullen simply responded: “You.” *Id.*

Contrary to the majority opinion below, the trial court did not ask “open-ended” questions, but rather, strongly coached Mr. Cullen on what the answer should be and then simply asked yes or no questions to gauge Mr. Cullen’s understanding. *See id.* at ¶ 11. The Twelfth District’s majority opinion failed to capture the leading nature of the trial court’s colloquy. *Id.* at ¶ 101 (Piper, J., dissenting). A review of the colloquy leaves the reader with no assurance that Mr. Cullen reasonably understood the nature and objective of the proceedings as required under R.C. 2945.37(G).

The statements Mr. Cullen made in response to the court’s leading questions are not sufficient to overcome uncontested evidence of his intellectual disability. Individuals with intellectual disabilities frequently report “familiarity with a term when they clearly did not understand” and this is especially true with authority figures. *See* Kathleen P. Stafford and Martin O. Sellbom, *Assessment of Competence to Stand Trial* (2012), available at https://web.archive.org/web/20151129083328id_/http://lp.wiley.com:80/HandbookPsychology/SampleChapters/Volume11.pdf (accessed July 4, 2024) [<https://perma.cc/KRW3-2REB>]. Thus, open-ended questions, not yes/no questions, are necessary to “facilitate participation in court proceedings.” *Id.* In addition, a defendant with “limited intellectual abilities” may be able to answer questions correctly, but “may still show no true or meaningful understanding” of the legal system. Otto, *Competency to Stand Trial*; Stafford and Sellbom, *Assessment of Competence to Stand Trial*. Mr. Cullen’s minimal responses to the trial court’s questions should have alerted the trial court that a professional evaluation was necessary.

3. The trial court’s findings at the competency hearing show that the trial court needed an expert’s opinion to make a finding of competency

The trial court’s own findings at the competency hearing provided ample evidence that a professional competency evaluation was necessary to determine whether Mr. Cull was competent to stand trial. The trial court agreed that trial counsel established a “good faith basis” to believe that Mr. Cullen had some mental disability, to which “[t]he exact nature of [the disability] remains unclear[.]” *Cullen*, 2024-Ohio-1916, at ¶ 18. Further, the trial court characterized Mr. Cullen as “somewhat lower functioning,” which was an “observation as a layperson with experience in the law, not as a psychologist or a psychiatrist.” *Id.* The trial court acknowledged that Mr. Cullen’s mental capacity is limited to an unknown extent, and then supplanted its layperson evaluation for that of a medical professional. The trial court also recognized that Mr. Cullen required guidance when he answered questions about court proceedings. *Id.*

III. Conclusion

The trial court was presented with uncontested evidence that Mr. Cullen’s brain damage as an infant had profound, life-long implications that hinder his ability to reasonably understand what is required to find him competent to stand trial. Rather than allowing a medical professional to properly weigh in on Mr. Cullen’s ability to understand the proceedings and assist in his own defense, the trial court relied solely on its colloquy in determining Mr. Cullen’s competency and its failure to order an evaluation was an abuse of discretion. For these reasons, this Court should accept jurisdiction.

PROPOSITION OF LAW II

When a trial court fails to order a competency evaluation despite evidence the defendant is incompetent, the “some reliable, credible evidence” standard should not be used by the appellate court to affirm a finding of competency.

A trial court has discretion on a “broad range of subject matters, both procedural and substantive.” *United States v. Criden*, 648 F.2d 814, 817 (3rd Cir. 1981). Therefore, “[t]he mere

statement that a decision lies within the discretion of the trial court does little to shed light on its reviewability.” *Id.*, citing Rosenberg, *Judicial Discretion of the Trial Court, Viewed from Above*, 22 Syracuse L. Rev. 635, 636-43 (1971). The amount of deference given to a trial court’s discretion is based upon “the reason why that category or type of decision is committed to the trial court’s discretion.” *Id.* Generally, deference is afforded to the trial court where the court’s ability to see and hear what goes on in the courtroom impacts the decision of the court. *State v. Cowans*, 87 Ohio St.3d 68, 84 (1999). This deference includes decisions related to the defendant’s competency. *Id.*

Ohio courts define “abuse of discretion” as “a decision that is unreasonable, unconscionable, or arbitrary.” *State v. Keenan*, 2015-Ohio-2484, ¶ 7. This Court has noted that “most instances of abuse of discretion will result in decisions that are simply unreasonable, rather than . . . unconscionable or arbitrary.” *AAA Ents. v. River Place Community Urban Redevelopment Corp.*, 50 Ohio St.3d 157, 161 (1990). An “unreasonable” decision involves “no sound reasoning process that would support that decision.” *Id.*

I. Where the trial court has the opinion of an expert in determining a defendant’s competency, its determination is supported by “some reliable, credible evidence”

This Court has held that deference should be afforded to the trial court’s competence determination because the trial court was in the best position to determine “the adequacy of the data relied upon by the expert who examined the appellant.” *State v. Williams*, 23 Ohio St.3d 16, 19 (1986). In *Williams*, this Court held that an appellate court will not “disturb the finding that appellant was competent to stand trial” when there is “some reliable, credible evidence,” (in that case, the opinion of an expert) and the defendant produced no evidence of incompetence. *Id.*

Here, it was not a “sound reasoning process” for the trial court to rule on Mr. Cullen’s competency to stand trial without the benefit of a competency evaluation. The trial court found

that “[t]he Defense has established a good faith basis to believe that the Defendant has suffered some mental illness or mental disease. The exact nature of that remains unclear due to the inability to acquire any medical records.” *Cullen*, 2024-Ohio-1916, at ¶ 18. Further, the trial court noted that the extent of Mr. Cullen’s disability is “simply unclear,” and that he seemed to be “somewhat lower functioning.” *Id.* The court noted, “I make that observation as a layperson with experience in the law, not as a psychologist or a psychiatrist.” *Id.* The trial court’s statements indicate that there was not a “sound reasoning process,” and that the court was unable to protect Mr. Cullen’s right to not be tried while incompetent without understanding the extent of Mr. Cullen’s “mental illness or mental disease.”

II. A defendant’s right to not be tried while incompetent requires a higher standard of review than “some competent, reliable evidence” when there is evidence of incompetence and no competency evaluation ordered

The trial court should be afforded less deference on its determination of a defendant’s competency where the record shows that the defendant presented evidence of incompetence and the trial court used its lay opinion in lieu of an expert. The purpose of affording deference to the trial court on competency issues is because it is better situated to see and hear what goes on in its courtroom. However, where the court lacks necessary information to decide whether the defendant is competent, the trial court is in no better position to determine the defendant’s competence than an appellate court. Therefore, the appellate court must take a closer look at the trial court’s determination in these circumstances to protect the defendant’s right to not be tried while incompetent. For these reasons, this Court should accept jurisdiction.

CONCLUSION

Criminal defendants have a constitutional right not to be tried while incompetent and ordering a competency evaluation is an invaluable tool to assist the trial court with making this important determination. A trial court’s failure to abide by the statutory procedures meant to secure

that right, and instead relying upon its own unsupported competency findings, is an abuse of discretion. This case presents matters of great constitutional importance and public interest. For these reasons, Mr. Cullen respectfully asks this Court to accept jurisdiction to fully consider the issues raised above.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of **Appellant Jonathan W. Cullen’s Memorandum in Support of Jurisdiction** was electronically delivered to Nicholas Adkins, Madison County Prosecuting Attorney, at nadkins@co.madison.oh.us on this 5th day of July, 2024.

/s/ Mallorie Thomas

Mallorie Thomas (0096942)

Assistant Public Defender

COUNSEL FOR JONATHAN W. CULLEN

IN THE SUPREME COURT OF OHIO

STATE OF OHIO,	:	
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**APPENDIX TO
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